

ORIGINAL

NEW APPLICATION



0000111310

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

2010 APR 19 A 11:08

KRISTIN K. MAYES, Chairman
GARY PIERCE
PAUL NEWMAN
SANDRA D. KENNEDY
BOB STUMP

ALL CORP COMMISSION
DOCKET CONTROL

In the matter of:

DOCKET NO. S-20738A-10-0147

TODD ALLAN HOSS individually and doing
business as Sellman Weis Mortgage &
Investment Corporation and Chesterfield
Mortgage Investment Corporation and JANE
DOE HOSS,

**TEMPORARY ORDER TO CEASE AND
DESIST AND NOTICE OF
OPPORTUNITY FOR HEARING**

RICK SELLMAN individually and doing
business as Sellman Weis Mortgage &
Investment Corporation and Chesterfield
Mortgage Investment Corporation and JANE
DOE SELLMAN,

Arizona Corporation Commission
DOCKETED

APR 19 2010

SELLMAN WEIS MORTGAGE &
INVESTMENT CORPORATION, an Arizona
corporation,

DOCKETED BY	NR
-------------	----

Respondents.

NOTICE: THIS ORDER IS EFFECTIVE IMMEDIATELY

EACH RESPONDENT HAS 20 DAYS TO REQUEST A HEARING

EACH RESPONDENT HAS 30 DAYS TO FILE AN ANSWER

The Securities Division ("Division") of the Arizona Corporation Commission ("Commission") alleges that respondents TODD ALLAN HOSS and RICK SELLMAN doing business as Sellman Weis Mortgage & Investment Corporation and Chesterfield Mortgage Investment Corporation, and SELLMAN WEIS MORTGAGE & INVESTMENT CORPORATION are engaging in or are about to engage in acts and practices that constitute violations of A.R.S. § 44-1801, *et seq.*, the Arizona Securities Act ("Securities Act"), and that the public welfare requires immediate action.

I. JURISDICTION

1. The Commission has jurisdiction over this matter pursuant to Article XV of the Arizona Constitution and the Securities Act.

II. RESPONDENTS

2. TODD ALLAN HOSS (“HOSS”) is an individual doing business from Scottsdale, Arizona as Sellman Weis Mortgage & Investment Corporation, an unincorporated business until April 5, 2010, and Chesterfield Mortgage Investment Corporation.

3. RICK SELLMAN (“SELLMAN”) is an individual residing in Maricopa County, Arizona and doing business from Scottsdale, Arizona as Sellman Weis Mortgage & Investment Corporation (“Sellman Weiss”) and Chesterfield Mortgage Investment Corporation (“Chesterfield Mortgage”).

4. According to the records of the Arizona Corporation Commission, SELLMAN WEIS MORTGAGE INVESTMENT CORPORATION was incorporated on April 5, 2010 and listed a business address located in Scottsdale, Arizona. SELLMAN is identified as President/Director.

5. JANE DOE HOSS has been at all relevant times the spouse of Respondent HOSS, JANE DOE SELLMAN has been at all relevant times the spouse of Respondent SELLMAN (JANE DOE HOSS and JANE DOE SELLMAN may be referred to collectively as “Respondent Spouses”). Respondent Spouses are joined in this action under A.R.S. § 44-2031(C) solely for purposes of determining the liability of the marital communities.

6. At all relevant times, Respondents HOSS and SELLMAN have been acting for their own benefit and for the benefit or in furtherance of their respective marital communities.

7. HOSS, SELLMAN, SELLMAN WEIS, CHESTERFIELD MORTGAGE and SELLMAN WEIS MORTGAGE INVESTMENT CORPORATION, may be referred to collectively as “Respondents.”

III. FACTS

1
2 8. Since at least March 2010, Respondents have been and are currently offering
3 securities in the form of investment contracts and/or real property investment contracts.
4 Respondents' offers to prospective investors include a guarantee to re-purchase the investment
5 within 30 days of written notice from the investor in the event the loan becomes sixty (60) days in
6 arrears.

7 9. HOSS and SELLMAN have represented and are currently representing to
8 prospective investors that they, through Sellman Weis and Chesterfield Mortgage, are attempting to
9 raise money from prospective investors to fund a \$7.7 million loan being sought by an entity that is
10 attempting to purchase a mansion located in Houston, Texas.

11 10. HOSS and SELLMAN have represented and are currently representing to
12 prospective investors that investors will receive a participation interest in a promissory note to be
13 secured by a first position deed of trust on the mansion located in Houston, Texas.

14 11. Respondents are soliciting individuals via facsimile correspondence
15 ("correspondence") and by telephone. The correspondence indicates an address for Sellman Weis
16 in Scottsdale, Arizona and further indicates that Chesterfield Mortgage is operating from
17 Scottsdale, Arizona.

18 12. The facsimile number and telephone numbers set forth in the correspondence to
19 prospective investors from Respondents includes an area code (480) known to be associated with
20 Scottsdale, Arizona.

21 13. The correspondence to prospective investors also identifies SELLMAN and HOSS
22 as President and Executive Vice President of Sellman Weis, respectively.

23 14. The correspondence to prospective investors includes a five (5) page document
24 titled: "Mortgage Paper Securities, Specific Offering Circular" ("Offering Circular").

25 15. Respondents have provided more than one version of the Offering Circular to
26 prospective investors.

1 16. A version of the Offering Circular, identified as being prepared by Chesterfield
2 Mortgage on March 17, 2010, was faxed to a prospective investor by SELLMAN on March 21,
3 2010 and indicated that the 10% loan origination fee and any late fees would be paid to
4 Chesterfield Mortgage. Further, the loan servicing fee would be paid to ABC Mortgage Broker-
5 Dealer, Inc. The loan was presented in the Offering Circular as being interest only with a balloon
6 payment of \$973,000 due on May 1, 2011, the maturity date.

7 17. The facsimile cover sheet attached to the correspondence sent by SELLMAN to the
8 prospective investor on March 21, 2010 represented to the prospective investor that Respondents
9 had available for purchase \$1,351,000 of the \$7.7 million loan. SELLMAN further indicated in the
10 correspondence to the prospective investor that investments could be purchased in various
11 increments if the prospective investor wished to open a new account with Respondents.

12 18. SELLMAN further represented to the prospective investor that Respondents
13 intended to supply their own funds, if necessary, to close the balance of the loan because
14 Respondents were committed to making the loan.

15 19. Another version of the Offering Circular, identified as being prepared by Sellman
16 Weis on March 17, 2010, was faxed to a prospective investor by HOSS on March 22, 2010. The
17 Offering Circular set forth that the 10% loan origination fee and any late fees would be paid to
18 Sellman Weiss from the loan proceeds. Further, the loan servicing fee would be paid to Sellman
19 Weis from monthly payments due to investors and any late charges would also be paid to Sellman
20 Weis. The loan was presented in the Offering Circular as being interest only with a balloon
21 payment of \$7,700,000 due on May 1, 2011, the maturity date.

22 20. The facsimile cover sheet attached to the correspondence sent by HOSS to the
23 prospective investor on March 22, 2010 represented to the prospective investor that Respondents
24 had available for purchase \$1,251,000 of the \$7.7 million loan and that investments could be
25 purchased in various increments. HOSS represented to the prospective investor that they could
26 purchase a \$125,000 interest for \$100,000 or a \$60,000 interest for \$50,000.

1 21. On March 25, 2010, SELLMAN represented to an additional prospective investor
2 that Respondents had available for purchase \$1,251,000 of the \$7.7 million loan and that the
3 prospective investor could purchase a \$32,500 interest for \$30,000 or a \$66,000 interest for
4 \$60,000.

5 22. Respondents refer to the difference in the value of the interest being purchased and
6 the purchase price as a "discount."

7 23. All correspondence forwarded to prospective investors by HOSS and SELLMAN
8 refer to the same loan number and identify specifically the mansion in Houston, Texas for which
9 the loan is being sought.

10 24. According to the records of the Arizona Corporation Commission, Chesterfield
11 Mortgage is not licensed to conduct business in Arizona. According to the Arizona Department of
12 Financial Institutions, Sellman Weis and Chesterfield Mortgage are not licensed as mortgage
13 bankers, mortgage brokers or escrow agents in Arizona.

14 25. Respondents failed to inform prospective investors that Sellman Weiss and
15 Chesterfield Mortgage were not licensed as mortgage bankers, mortgage brokers or escrow agents
16 in Arizona.

17 26. On August 26, 2009, the State of Washington entered a Superseding Statement of
18 Charges, Stop Order Suspending and Notice of Intent to Revoke Securities Registration, Summary
19 Order to Cease and Desist, Summary Order Revoking Exemptions, Summary Order Suspending
20 and Notice of Intent to Revoke Securities Broker-Dealer and Securities Salesperson Registration,
21 and Notice of Intent to Impose a Fine ("Statement of Charges") against Hoss Mortgage Investors,
22 Inc. ("HMI") and Todd Allan Hoss.

23 27. The Statement of Charges alleges that HMI and HOSS offered and sold investment
24 loan securities and investments in promissory notes and deeds of trust without disclosing that some
25 of the investments were not recorded or secured by deeds of trust as represented by HMI and
26 HOSS. The Statement of Charges also alleges that HMI and HOSS failed to provide investors with

1 required financial information about their investments, including information about the borrower,
2 the title to real property, and the valuation of the property that should secure the investment. The
3 Statement of Charges further alleges that HMI and HOSS have each engaged in dishonest and
4 unethical practices in the securities business.

5 28. HOSS failed to disclose to prospective investors the action taken by the State of
6 Washington as set forth in the Statement of Charges.

7 **IV. VIOLATION OF A.R.S. § 44-1841**

8 **(Offer and Sale of Unregistered Securities)**

9 29. From at least March 2010, Respondents have been offering or selling securities in
10 the form of investment contracts and/or real property investment contracts, within or from Arizona.

11 30. The securities referred to above are not registered pursuant to Articles 6 or 7 of the
12 Securities Act.

13 31. This conduct violates A.R.S. § 44-1841.

14 **V. VIOLATION OF A.R.S. § 44-1842**

15 **(Transactions by Unregistered Dealers or Salesmen)**

16 32. Respondents are offering or selling securities within or from Arizona while not
17 registered as dealers or salesmen pursuant to Article 9 of the Securities Act.

18 33. This conduct violates A.R.S. § 44-1842.

19 **VI. VIOLATION OF A.R.S. § 44-1991**

20 **(Fraud in Connection with the Offer or Sale of Securities)**

21 34. In connection with the offer or sale of securities within or from Arizona,
22 Respondents are, directly or indirectly: (i) employing a device, scheme, or artifice to defraud; (ii)
23 making untrue statements of material fact or omitting to state material facts that are necessary in
24 order to make the statements made not misleading in light of the circumstances under which they are
25 made; or (iii) engaging in transactions, practices, or courses of business that operate or would
26

1 operate as a fraud or deceit upon offerees and investors. Respondents' conduct includes, but is not
2 limited to, the following:

3 a) HOSS and SELLMAN failed to inform prospective investors that Sellman
4 Weiss and Chesterfield Mortgage were not licensed as mortgage bankers, mortgage brokers or
5 escrow agents in Arizona; and

6 b) HOSS failed to disclose the action taken by the State of Washington
7 involving his sale of investment loan securities and investments in promissory notes and deeds of
8 trust.

9 35. This conduct violates A.R.S. § 44-1991.

10 **VII. TEMPORARY ORDER**

11 **Cease and Desist from Violating the Securities Act**

12 THEREFORE, based on the above allegations, and because the Commission has determined
13 that the public welfare requires immediate action,

14 IT IS ORDERED, pursuant to A.R.S. § 44-1972(C) and A.A.C. R14-4-307, that
15 Respondents, their agents, servants, employees, successors, assigns, and those persons in active
16 concert or participation with Respondents CEASE AND DESIST from any violations of the
17 Securities Act.

18 IT IS FURTHER ORDERED that this Temporary Order to Cease and Desist shall remain in
19 effect for 180 days unless sooner vacated, modified, or made permanent by the Commission.

20 IT IS FURTHER ORDERED that this Order shall be effective immediately.

21 **VIII. REQUESTED RELIEF**

22 The Division requests that the Commission grant the following relief:

23 1. Order Respondents to permanently cease and desist from violating the Securities
24 Act, pursuant to A.R.S. § 44-2032;

2. Order Respondents to take affirmative action to correct the conditions resulting from Respondents' acts, practices, or transactions, including a requirement to make restitution pursuant to A.R.S. § 44-2032;

3. Order Respondents to pay the state of Arizona administrative penalties of up to five thousand dollars (\$5,000) for each violation of the Securities Act, pursuant to A.R.S. § 44-2036;

4. Order that the marital communities of Respondents and Respondent Spouses are subject to any order of restitution, rescission, administrative penalties, or other appropriate affirmative action pursuant to A.R.S. § 25-215; and

5. Order any other relief that the Commission deems appropriate.

IX. HEARING OPPORTUNITY

Each respondent including Respondent Spouses may request a hearing pursuant to A.R.S. § 44-1972 and A.A.C. Rule 14-4-307. **If a Respondent or Respondent Spouse requests a hearing, the requesting respondent must also answer this Temporary Order and Notice.** A request for hearing must be in writing and received by the Commission within 20 days after service of this Temporary Order and Notice. The requesting respondent must deliver or mail the request for hearing to Docket Control, Arizona Corporation Commission, 1200 West Washington, Phoenix, Arizona 85007. Filing instructions may be obtained from Docket Control by calling (602) 542-3477 or on the Commission's Internet web site at www.azcc.gov/divisions/hearings/docket.asp.

If a request for hearing is timely made, the Commission shall schedule a hearing to begin 10 to 30 days from the receipt of the request unless otherwise provided by law, stipulated by the parties, or ordered by the Commission. **Unless otherwise ordered by the Commission, this Temporary Order shall remain effective from the date a hearing is requested until a decision is entered.** After a hearing, the Commission may vacate, modify, or make permanent this Temporary Order, with written findings of fact and conclusions of law. A permanent Order may include ordering restitution, assessing administrative penalties, or other action.

1 If a request for hearing is not timely made, the Division will request that the Commission
2 make permanent this Temporary Order, with written findings of fact and conclusions of law, which
3 may include ordering restitution, assessing administrative penalties, or other relief.

4 Persons with a disability may request a reasonable accommodation such as a sign language
5 interpreter, as well as request this document in an alternative format, by contacting Shaylin A.
6 Bernal, ADA Coordinator, voice phone number 602/542-3931, e-mail sabernal@azcc.gov.
7 Requests should be made as early as possible to allow time to arrange the accommodation.

8 X. ANSWER REQUIREMENT

9 Pursuant to A.A.C. R14-4-305, if a Respondent or Respondent Spouse requests a hearing,
10 the requesting respondent must deliver or mail an Answer to this Temporary Order and Notice to
11 Docket Control, Arizona Corporation Commission, 1200 W. Washington, Phoenix, Arizona
12 85007, within 30 calendar days after the date of service of this Temporary Order and Notice.
13 Filing instructions may be obtained from Docket Control by calling (602) 542-3477 or on the
14 Commission's Internet web site at www.azcc.gov/divisions/hearings/docket.asp.


15 Additionally, the answering respondent must serve the Answer upon the Division.
16 Pursuant to A.A.C. R14-4-303, service upon the Division may be made by mailing or by hand-
17 delivering a copy of the Answer to the Division at 1300 West Washington, 3rd Floor, Phoenix,
18 Arizona, 85007, addressed to William W. Black.

19 The Answer shall contain an admission or denial of each allegation in this Temporary
20 Order and Notice and the original signature of the answering respondent or the respondent's
21 attorney. A statement of a lack of sufficient knowledge or information shall be considered a denial
22 of an allegation. An allegation not denied shall be considered admitted.

23 When the answering respondent intends in good faith to deny only a part or a qualification
24 of an allegation, the respondent shall specify that part or qualification of the allegation and shall
25 admit the remainder. Respondent waives any affirmative defense not raised in the Answer.
26

1 The officer presiding over the hearing may grant relief from the requirement to file an
2 Answer for good cause shown.

3 BY ORDER OF THE ARIZONA CORPORATION COMMISSION, this 19 day of April,
4 2010.

5 
6 Matthew J. Neubert
7 Director of Securities
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26